

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE APRIL 28, 2003

SENATE BILL

No. 749

Introduced by Senator Escutia
(Coauthors: Senators Soto and Speier)

February 21, 2003

An act to add Chapter 31 (commencing with Section 22942) to Division 8 of the Business and Professions Code, relating to hospital group purchasing organizations.

LEGISLATIVE COUNSEL'S DIGEST

SB 749, as amended, Escutia. Hospital: group purchasing organizations.

Existing law does not regulate group purchasing organizations purchasing medical supplies used by hospitals.

This bill would require a hospital group purchasing organization doing business in this state to adhere to and implement certain code of conduct principles.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Hospital spending in California is taking on a new
4 importance, especially with rising hospital costs and inability of

1 hospitals to afford the nurses ~~or~~ *and* other medical personnel they
2 need.

3 (b) Most health care costs are paid indirectly by taxpayers
4 through programs like Medi-Cal and by private insurers.

5 (c) Many hospitals purchase medical supplies through group
6 purchasing organizations (GPOs), which use ~~their~~ *the hospitals'*
7 collective purchasing power to obtain the best prices for those
8 supplies.

9 (d) Reform is necessary to ensure that group purchasing
10 organizations meet their own ethical standards and promote, rather
11 than hinder, innovation in the medical device field.

12 SEC. 2. Chapter 31 (commencing with Section 22942) is
13 added to Division 8 of the Business and Professions Code, to read:

14
15 CHAPTER 31. HOSPITAL GROUP PURCHASING ORGANIZATIONS

16
17 22942. For the purposes of this chapter, the following terms
18 have the following meanings:

19 (a) "Group purchasing organization" is an entity that as all or
20 part of its business is authorized by member health care service
21 providers to enter into contracts to purchase medical supplies from
22 vendors as the agent of the members.

23 (b) "Bundling" is the practice of packaging ~~nonclinical~~
24 ~~preference~~ items into a single contract and requiring a member to
25 buy the entire package in order to obtain the lowest price for the
26 entire package.

27 (c) "Clinical preference products or services" means those
28 clinical products or services that require substantial training to
29 learn to use and that have a demonstrable effect on patient care
30 outcomes. "Clinical preference products or services" includes
31 products or services for which a provider has a particular
32 preference based on factors such as the provider's training and
33 experience, the performance or utility of those products or services
34 in a clinical setting, and patient clinical outcomes.

35 (d) "Clinical products or services" means products or services
36 used by providers directly in the provision of health care services
37 to patients.

38 (e) "Corporate interest" means equity or debt securities,
39 options, debt instruments including loans, or rights to acquire any
40 of these.

1 (f) “Member” means a provider of health care services that
2 contracts with a group purchasing organization to purchase goods
3 or services from vendors.

4 (g) “Nominal value” means any item, service, or other thing
5 of value, but not including cash or cash equivalents, that does not
6 exceed fifty dollars (\$50) per instance or one hundred dollars
7 (\$100) in a calendar year. Any item, service, or other thing of value
8 of ten dollars (\$10) or less shall not be counted toward the
9 one-hundred-dollar (\$100) annual limit.

10 (h) “Vendor” means a manufacturer, distributor, supplier, or
11 other entity that sells goods or services to members pursuant to a
12 contract with a group purchasing organization.

13 22942.1. Each group purchasing organization doing business
14 in this state shall adhere to and implement the following code of
15 conduct principles:

16 (a) Management employees, other employees who are in a
17 position to influence contracting decisions by the group
18 purchasing organization, and nonemployee officers, directors, and
19 advisory board members may not accept any gifts, entertainment,
20 favors, honoraria, or personal services payments from any vendor
21 with whom the group purchasing organization contracts. This
22 subdivision shall not apply to items or amounts of nominal value.

23 (b) A group purchasing organization or any of its employees,
24 officers, directors, and advisory board members described in
25 subdivision (a) may not have any corporate equity interest in any
26 of its vendors unless that interest is fully disclosed to the members
27 of the group purchasing organization.

28 (c) A group purchasing organization that has a corporate
29 interest in a vendor may not impose any obligation, commitment,
30 or other requirements or restrictions that in any way obligate a
31 member to purchase goods or services from that vendor.

32 (d) A group purchasing organization may not engage in
33 bundling of *clinical preference goods or services*.

34 (e) *A group purchasing organization may not extract fees or*
35 *any remuneration from any vendor in excess of 3 percent of total*
36 *purchases from the vendor.*

37 (f) A group purchasing organization shall disclose to its
38 members the payments it receives from vendors with respect to
39 purchases made by or on behalf of the members. The disclosure
40 shall distinguish between payments that are related to actual

1 purchases as well as payments that are not allocable to actual
2 purchases. A group purchasing organization shall provide a
3 member an annual statement of all vendor payments received for
4 those purchases.

5 (g) *A group purchasing organization may not require its*
6 *members to purchase goods or services from any single vendor, or*
7 *to purchase from any single vendor in excess of 90 percent of its*
8 *total purchases.*

